
From: jybb1b2@aol.com
Sent: Tuesday, January 18, 2011 6:04 PM
To: Eric Opiela; Gerardo and Aynsley Gmail Account
Subject: Re: Eric and I were trying to get a hold of you

Gerardo-clearly up some mis communication. I spoke w lamar and he said GI u had ask him for suggestions on people u personally should meet with and he narrowed those down for you. He doesn't think good for eric to attend those meetings. Believe it sends mix messages and for those members who don't get mtgs will ask why and as u know word gets around. Eric will attend the cos lunch thursday and will meet all of the COS the at that meeting.

As eric might of mentioned he and lamar are mtg w all members thursday morning at 830. I was contacted by a COS asking me if it was ok for his member to skip the member breakfast mtg bc mtg w eric later in the week which was a surprise to us. As Eric and I talked this morning we will cc each other on all emails back and forth btwn Lamar on redistricting matters and when your business directly overlaps congressional redistricting if you cld cc us as well so we are all on the same page moving forward. Any questions please let me know or give me a call. Many thanks.

-----Original Message-----

From: Eric Opiela
To: Gerardo and Aynsley Gmail Account
Cc: Home
Subject: Re: Eric and I were trying to get a hold of you
Sent: Jan 18, 2011 6:18 PM

I think I will skip out on the meeting with Ruben Hinojosa, even though I'm his constituent, I don't think it would be appropriate for me to meet with him considering my role.

Jennifer, are there any problems (for me) meeting with any others?

Eric

On Jan 18, 2011, at 4:52 PM, Gerardo Interiano wrote:

> Spoke to Eric. Here is the schedule for the two days. The meetings
> are scheduled with the Chiefs of Staff but I suspect that some Members
> may be present if they are in town.
>
> Thursday
> 3:00 - Flores
> 3:45 - Farenthold
> 4:30 - LS
> 5:30 - Canseco
>
> Friday
> 8:45 - Poe
> 9:30 - Hensarling
> 10:15 - Hinojosa
> 11:00 - Carter
>
> On Tue, Jan 18, 2011 at 2:25 PM, <jybb1b2@aol.com> wrote:

>> If you could call one of us so we can conference each other in I
>> would appreciate it.
>>
>>

Sent via BlackBerry by AT&T

DOCUMENT INFO

Filename: FYI-Brady and Culberson.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Wednesday, January 19, 2011 8:57 AM
To: jybbib2@aol.com Brown
Subject: FYI-Brady and Culberson

Heads up, heard from people I know in Austin this morning that Doug Sentelle (Brady's COS) was in Austin yesterday for the inaugural and made some "goodwill" visits re: redistricting (nothing concerning). Tony Essalih, Culberson's COS is in Austin today wanting to meet with Texas Legislative Council's "Map Drawers." FYI, Lege Council doesn't have "map drawers.," they are a legislative support agency which gives us data and drafting support. Please don't call either Doug or Tony yet because I don't know how many people they talked to and don't want the people I've talked to get blowback from them for telling me. Just wanted to keep you informed as to what other chiefs are doing.

EO

=

DOCUMENT INFO

Filename: Re: FYI-Brady and Culberson.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Gerardo Interiano [ginteriano@gmail.com]
Sent: Wednesday, January 19, 2011 9:00 AM
To: Eric Opiela
Subject: Re: FYI-Brady and Culberson

btw, it's Doug Centilli. And I don't know for a fact that Doug took any meetings. All I know is that he was here for the inaugural.

On Wed, Jan 19, 2011 at 8:56 AM, Eric Opiela <eopiela@ericopiela.com> wrote:

> Heads up, heard from people I know in Austin this morning that Doug Sentelle (Brady's COS) was in Austin yesterday for the inaugural and made some "goodwill" visits re: redistricting (nothing concerning). Tony Essalih, Culberson's COS is in Austin today wanting to meet with Texas Legislative Council's "Map Drawers." FYI, Lege Council doesn't have "map drawers.," they are a legislative support agency which gives us data and drafting support. Please don't call either Doug or Tony yet because I don't know how many people they talked to and don't want the people I've talked to get blowback from them for telling me. Just wanted to keep you informed as to what other chiefs are doing.

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> EO
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DOCUMENT INFO

Filename: Re: FYI-Brady and Culberson.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Wednesday, January 19, 2011 9:08 AM
To: Gerardo Interiano
Subject: Re: FYI-Brady and Culberson

Thanks. You OK with how I wrote this otherwise?

On Jan 19, 2011, at 8:59 AM, Gerardo Interiano wrote:

> btw, it's Doug Centilli. And I don't know for a fact that Doug took
> any meetings. All I know is that he was here for the inaugural.
>
> On Wed, Jan 19, 2011 at 8:56 AM, Eric Opiela <eopiela@ericopiela.com> wrote:
>> Heads up, heard from people I know in Austin this morning that Doug Sentelle (Brady's COS) was in Austin yesterday for the inaugural and made some "goodwill" visits re: redistricting (nothing concerning). Tony Essalih, Culberson's COS is in Austin today wanting to meet with Texas Legislative Council's "Map Drawers." FYI, Lege Council doesn't have "map drawers.," they are a legislative support agency which gives us data and drafting support. Please don't call either Doug or Tony yet because I don't know how many people they talked to and don't want the people I've talked to get blowback from them for telling me. Just wanted to keep you informed as to what other chiefs are doing.
>>
>> EO
>>
>>

DOCUMENT INFO

Filename: Re: FYI-Brady and Culberson.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Gerardo Interiano [ginteriano@gmail.com]
Sent: Wednesday, January 19, 2011 9:12 AM
To: Eric Opiela
Subject: Re: FYI-Brady and Culberson

yup.

On Wed, Jan 19, 2011 at 9:08 AM, Eric Opiela <eopiela@ericopiela.com> wrote:

> Thanks. You OK with how I wrote this otherwise?

>

> On Jan 19, 2011, at 8:59 AM, Gerardo Interiano wrote:

>

>> btw, it's Doug Centilli. And I don't know for a fact that Doug took

>> any meetings. All I know is that he was here for the inaugural.

>>

>> On Wed, Jan 19, 2011 at 8:56 AM, Eric Opiela <eopiela@ericopiela.com> wrote:

>>> Heads up, heard from people I know in Austin this morning that Doug Sentelle (Brady's COS) was in Austin yesterday for the inaugural and made some "goodwill" visits re:

redistricting (nothing concerning). Tony Essalih, Culberson's COS is in Austin today wanting to meet with Texas Legislative Council's "Map Drawers." FYI, Lege Council doesn't have "map drawers.," they are a legislative support agency which gives us data and drafting support.

Please don't call either Doug or Tony yet because I don't know how many people they talked to and don't want the people I've talked to get blowback from them for telling me. Just wanted to keep you informed as to what other chiefs are doing.

>>>

>>> EO

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>

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DOCUMENT INFO

Filename: Keeping yall in the loop.....FW: Scheduling
item - Delegation meeting with Eric
Opiela .msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Brown, Jennifer Y. [Jennifer.Y.Brown@mail.house.gov]
Sent: Wednesday, January 19, 2011 10:03 AM
To: Gerardo Interiano; 'eopiela@ericopiela.com'
Subject: Keeping yall in the loop.....FW: Scheduling item - Delegation meeting with Eric Opiela
Attachments: image001.png; image002.png; image003.png; image004.png

We received the below from Flores scheduler so I sent a quick email to his COS just a minute ago.

Jeff—think there is some confusion. Gerardo with Speaker Straus I believe is making some courtesy meetings this week but it is my understanding that Eric will not be in those meetings. Again the meeting with the members is purely introductory so if your boss can't make it is not the end of the world. But just wanted to clear up any mis-understanding and give you all the relevant information.

Sent: Wednesday, January 19, 2011 10:55 AM
To: Brown, Jennifer Y.
Subject: FW: Scheduling item - Delegation meeting with Eric Opiela

From: Hancock, Travis
Sent: Wednesday, January 19, 2011 10:48 AM
To: Vinyard, Ashlee
Subject: RE: Scheduling item - Delegation meeting with Eric Opiela
Ashlee,
Rep Bill Flores will not be able to attend this meeting due to a scheduling conflict.
Please let your boss know that Bill will meet with Eric later in the afternoon.
Thank you,
Travis
Travis Hancock
Office Manager & Scheduler
Congressman Bill Flores (TX-17)
Office: (202) 225-6105
Fax: (202) 225-0350
Travis.Hancock@mail.house.gov
www.Flores.House.gov

From: Vinyard, Ashlee
Sent: Tuesday, January 18, 2011 6:38 PM
To: Gillespie, Linda; Scarborough, Julieann; Schwahn, Marjorie; Stevens, Amanda; Noles, Holly; Rodill, Faith; Hasslocher, Mary-Margaret; Gahun, Jamie; Wilkes, Emily; Hancock, Travis; Swinchatt, Jennifer; Christensen, Carlie; Duncan, Dee; Brown, Chelsea; Ray, Lindsey; Cunningham, Scott; O'Brien, Megan; James, Melissa; Dornette, Marjorie; Johnson, Holly; Steil, Elizabeth; Young, Leigh; Buck, Kelly
Cc: Brown, Jennifer Y.
Subject: RE: Scheduling item - Delegation meeting with Eric Opiela

The meeting will be in the Reagan Room on the 4th floor of the RNC and is members only. If you haven't already, please let me know if your boss can attend. Thank you.

Ashlee

From: Vinyard, Ashlee

Sent: Friday, January 14, 2011 12:38 PM

To: Gillespie, Linda; Scarborough, Julieann; Schwahn, Marjorie; Stevens, Amanda; Noles, Holly; Rodill, Faith; Hasslocher, Mary-Margaret; Gahun, Jamie; Wilkes, Emily; Hancock, Travis; Swinchatt, Jennifer; Christensen, Carlie; Duncan, Dee; Brown, Chelsea; Ray, Lindsey; Cunningham, Scott; O'Brien, Megan; James, Melissa; Dornette, Marjorie; Johnson, Holly; Steil, Elizabeth; Young, Leigh; Buck, Kelly

Cc: Brown, Jennifer Y.; Vinyard, Ashlee

Subject: Scheduling item - Delegation meeting with Eric Opiela

Eric Opiela, the redistricting attorney for the TX GOP delegation, will be in town next week and Congressman Smith asked him to meet with the delegation. He is available to meet on Thursday, January 20 at 8:30am. I will follow-up with a location next week. Please let me know if your boss can attend. Thank you.

Ashlee

Ashlee Vinyard

Office of Congressman Lamar Smith

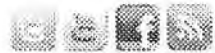
2409 Rayburn House Office Building

Washington, DC 20515

202-225-4236 p

202-225-8628 f

lamarsmith.house.gov



DOCUMENT INFO

Filename: went over to lamars for lunch.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Wednesday, January 19, 2011 12:37 PM
To: Gerardo Interiano
Subject: went over to lamars for lunch

of course he said, "when can we expect to start seeing sample plans" I told him we just got the geography last week and are working through meshing the political data with it....I can't estimate because I don't want to over promise and under deliver. He pushed further, a couple of days? weeks?

Thank you for warning me yesterday.

EO=

DOCUMENT INFO

Filename: Re: went over to lamars for lunch.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Gerardo Interiano [ginteriano@gmail.com]
Sent: Wednesday, January 19, 2011 4:53 PM
To: Eric Opiela
Subject: Re: went over to lamars for lunch

Perfect! Did you get the maps I sent you earlier? We land tomorrow at 1:00 so I'll touch base when we get to the Hill. How are the streets? Snowy?

On Wed, Jan 19, 2011 at 12:37 PM, Eric Opiela <eopiela@ericopiela.com> wrote:

> of course he said, "when can we expect to start seeing sample plans" I told him we just got the geography last week and are working through meshing the political data with it....I can't estimate because I don't want to over promise and under deliver. He pushed further, a couple of days? weeks?

>

> Thank you for warning me yesterday.

>

> EO

DOCUMENT INFO

Filename: Re: went over to lamars for lunch.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Wednesday, January 19, 2011 5:22 PM
To: Gerardo Interiano
Subject: Re: went over to lamars for lunch

Yes, I got the map. Thanks!

Streets are clear, no snow. All melted.

EO

On Jan 19, 2011, at 5:52 PM, Gerardo Interiano <ginteriano@gmail.com> wrote:

> Perfect! Did you get the maps I sent you earlier? We land tomorrow
> at 1:00 so I'll touch base when we get to the Hill. How are the
> streets? Snowy?
>
> On Wed, Jan 19, 2011 at 12:37 PM, Eric Opiela <eopiela@ericopiela.com> wrote:
>> of course he said, "when can we expect to start seeing sample plans" I told him we just
got the geography last week and are working through meshing the political data with it....I
can't estimate because I don't want to over promise and under deliver. He pushed further, a
couple of days? weeks?
>>
>> Thank you for warning me yesterday.
>>
>> EO

DOCUMENT INFO

Filename: TLC VTDs.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Thursday, January 20, 2011 8:45 PM
To: Gerardo Interiano
Subject: TLC VTDs

Is the 04GVTDs shapefile the 2010 VTDs? if not can they provide me the 2010 file?

DOCUMENT INFO

Filename: Lying with numbers: measuring vote
dilution.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Sunday, January 23, 2011 9:39 AM
To: eopiela@ericopiela.com
Cc: Gerardo Interiano
Subject: Lying with numbers: measuring vote dilution

Ways of measuring Racially Polarized Voting:

Homogeneous Precinct Analysis

Bivariate Ecological Regression Analysis Ecological Inference Analysis

HPA- compare voting patterns in homogeneous precincts (90% cutoff) to heterogeneous precincts. Find the most homogenous minority precincts, look at a shared race with homogenous white precincts. See if the result in the homogeneous white and black precincts are substantially different. A contest is racially polarized if the groups would have separately reached a different result, though the polarization may not be legally significant.

BERA-information about all precincts, not just homogenous precincts are incorporated in the analysis. Two variables. Percent minority and percent of the vote for a candidate. Plot all precincts on a graph. Find the line that best fits the combined smallest distance between the points along the graph using spss. Correlation coefficient, beta, needs to be high (close to 1) to show that the relationship is valid. Disadvantage of this technique is that it produces estimates outside the bounds of possibility in cases of high polarization.

EIA-Prof. Gary King- addresses this problem. Incorporates the method of bounds into the calculation. Identify the range of possible values for the percentage of black and white voters that voted for a given candidate. E.g. We know there are 100 voters, 60 black and 40 white, candidate z got 50 votes. Bounds for black voters are 50/60 and least is 10/60. Bounds for white voters 0/40. The minimum estimate for blacks 10/60 or .17 gives us the maximum estimate for whites 40/40 or 1 and the maximum estimate for blacks 50/60 or .83 give us the minimum for whites.

Another problem is incorporating the differential between vap and to per vtd...better measure would be cvap.

Sent from my iPad=

DOCUMENT INFO

Filename: Braden lecture.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Sunday, January 23, 2011 10:43 AM
To: eopiela@ericopiela.com
Cc: Gerardo Interiano
Subject: Braden lecture

Bartlett v. Strickland

Majority-minority district-may be required by sec 2 and sec 5-minority population is a "numerical working majority" of vap.

Influence district-permitted but not required by section 2, not permitted by sec 5 if stronger districts are possible-minority group could influence the outcome of the election even if the preferred candidate cannot be elected.

Crossover district-permitted but not required by sec 2, may be required by sec 5 if currently exists and dismantling would result in retrogression-minority group can elect a candidate of choice with help from other voters who are members of the majority.

Coalition district-not addressed by supreme court-two minority groups form a coalition to elect a candidate of the coalition's choice.

Under section 2, minority majority districts required as measured by pop, only as measured by cvap.

Under section 5 minority majority districts as measured by pop may be protected against retrogression if currently crossover, but otherwise not protected.

Sent from my iPad

DOCUMENT INFO

Filename: FYI: Aus Chron-Painting by Numbers.msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

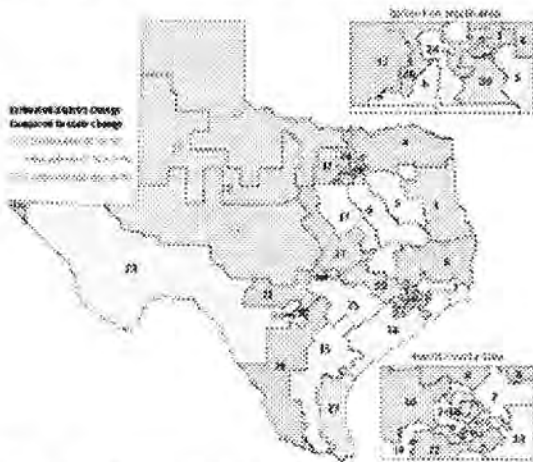
DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Friday, January 28, 2011 2:46 PM
To: lamarsmith21@gmail.com; Gerardo Interiano; Jennifer Brown
Subject: FYI: Aus Chron-Painting by Numbers
Attachments: pols_feature1-1.jpeg; pols_feature1-2.jpeg

Painting by Numbers

It's redistricting time again! Wherein we recall how we got here ... and contemplate the baleful map-drawing future.

BY LEE NICHOLS, FRI., JAN. 28, 2011



This map shows the relative rates of population growth in each of Texas' current congressional districts, as estimated in U.S. Census and state reports, across the state: less than average (orange), average (yellow), and greater than average (green). The greatest growth is in the urban or urbanizing corridors along I-35 and across to Houston, yet not necessarily in the urban cores (see insets).

SOURCE TEXAS LEGISLATIVE COUNCIL

With all due respect to the restaurant chain's kitchen staff, it seems highly unlikely that anyone in Austin right now is thinking, "Damn, I wish I could go eat at the Denny's in Ardmore, Oklahoma."

Before this session of the Texas Legislature ends, however, there could be at least 49 people under the Capitol dome wishing very much that such a road trip were an option. That's the number of House Democrats currently serving in the 82nd session of the Lege — an almost completely powerless minority of the 150-member body. It's not even enough to break the quorum — the tactic used by the House Dems the last time Lone Star lawmakers took up the hot-button chore of redistricting. The Dems fled the state to Ardmore (and later, from the Senate, to Albuquerque, N.M.).

The decade has turned, so it's time once again to take up redistricting. As always, the process will be contentious, but this time, there's little that Texas Dems can do to halt the Republican railroad — if a hero comes to their rescue, he or she will have to ride in from Washington, D.C.

And once again, Austin could be the epicenter of the fight — both literally, under the Capitol dome, and figuratively, on the maps. Our blue island in the red ocean of Texas was a target last time around, and for the Republicans, sticking it to the state's most liberal city never gets old.

District	2009 ACS Estimate	Deviation*	Percentage
1	710,414	8,513	1.2%
2	749,676	47,775	6.8%

3	872,895	170,994	24.4%
4	818,462	116,561	16.6%
5	723,374	21,473	3.1%
6	805,442	103,541	14.8%
7	786,667	84,766	12.1%
8	808,773	106,872	15.2%
9	738,166	36,265	5.2%
10	943,301	241,400	34.4%
11	693,432	(8,469)	-1.2%
12	820,289	118,388	16.9%
13	657,065	(44,836)	-6.4%
14	760,299	58,398	8.3%
15	768,767	66,866	9.5%
16	713,169	11,268	1.6%
17	749,966	48,065	6.8%
18	740,571	38,670	5.5%
19	679,701	(22,200)	-3.2%
20	700,692	(1,209)	-0.2%
21	837,900	135,999	19.4%
22	895,488	193,587	27.6%
23	804,574	102,673	14.6%
24	791,663	89,762	12.8%
25	810,390	108,489	15.5%
26	907,036	205,135	29.2%
27	714,243	12,342	1.8%
28	817,105	115,204	16.4%
29	675,095	(26,806)	-3.8%
30	752,686	50,785	7.2%
31	857,673	155,772	22.2%
32	677,328	(24,573)	-3.5%

**Deviation from the ideal district size of 701,901 per 36 districts, calculated with inclusion of overseas/out-of-state Texans.*

The Census Bureau has determined that, in order to adhere as closely as possible to the notion of one person, one vote, Texas' population growth necessitates that the Lone Star State expand from 32 congressional districts to 36.

The bureau has determined that the ideal size of each of the 36 districts would be 701,901 residents, and the chart above shows how much the population of each of the current 32 districts deviates from that ideal (the bolded districts are those that contain parts of Austin). Based on this, we can get an idea of which areas will be most heavily impacted – of the 10 most overpopulated districts, four represent Austin and another four represent the northern Dallas-Fort Worth area, so those would be good candidates to cram in to the four new districts. The most overpopulated is Michael McCaul's District 10, which runs from West Lake Hills, through North Austin, and east to suburban Houston, and the population growth likely came from both ends of that district. Clearly District 10, and likely other area districts, will have to give away some ground.

A big disclaimer about these numbers: They are flawed because they mix two different sets of data. The population numbers per district come not from the 2010 Census (a full breakdown of which has not been released yet; it should arrive as early as mid-February), but from the Census Bureau's 2009 American Community Survey estimates. Most likely, the 2010 population numbers will be slightly higher. Meanwhile, the ideal district size *does* come from the 2010 total Texas population.

Re-Redistrict Reprise

How did we get here?

Texas redistricting in the past decade (or two, depending on your perspective) has an ugly history. If you're new to Travis County – and according to the U.S. Census Bureau and the State Data Center, about 200,000 of you are – you might find useful a retrospective of what went down back in 2001 and 2003, and why the bad blood and political repercussions still linger.

In theory, redistricting – the periodic redrawing of political boundaries within each state to equalize representation – ought to be simple. In practice, it's a complex task through which politicians and political parties try to preserve their power while simultaneously avoiding running afoul of the Voting Rights Act – which in states with historical patterns of discrimination (e.g., Texas) forbids drawing districts that will weaken the electoral strength of racial minorities.

This is normally accomplished every 10 years after Census data is released, and the lines were duly redrawn in 2001, albeit by a court after the Lege failed to agree on any maps. But in 2003, then-U.S. House Majority Leader Tom DeLay decided Texas' congressional districts needed *more* redistricting – an unprecedented maneuver – and he convinced GOP Lege leaders to accommodate him. It was the second stage of a plot that recently earned him a prison sentence – stage one (the illegal part) involved laundering corporate money through a political action committee and funneling it to legislative candidates in 2002, which gave the GOP the majority in the House and made the 2003 re-redistricting possible.

DeLay's beef was that, although the state mostly voted Republican in statewide races, the Texas congressional delegation leaned Democratic, 17-15. He wanted districts redrawn to increase the number of Republicans in Congress. Election results indeed reflected that in several Texas districts, majorities voted for Bush – but they also preferred their (usually conservative) Democratic congressmen. (Polls also showed that most Texans of either party regarded re-redistricting as a waste of time.)

The process quickly turned nasty. For example, a major target of DeLay's line-drawing was white Democrats, to polarize the parties racially. As University of Texas adjunct law professor Steve Bickerstaff put it in his book *Lines in the Sand: Congressional Redistricting in Texas and the Downfall of Tom DeLay*, the long-term Republican strategy was "to marginalize the Democrats as a party exclusively for losers, liberals, and racial minorities." Conservative Democrats had to be forced either out of Congress or into the Republican fold – GOP ideologue Grover Norquist famously declared, "no Texan need grow up thinking that being a Democrat is acceptable behavior." Heavily outnumbered, House Democrats decided the only way to kill the re-redistricting was to break quorum, a move that required 51 of them to leave not only the floor but also the state, or at least the clutches of Texas law enforcement. As then-Speaker Tom Cradick attempted to force their return, 47 Dems secretly boarded a chartered bus and slipped away at night to Ardmore; six more simply disappeared for four days until Cradick relented and dropped the redistricting bill.

The tactic worked initially but ultimately proved to be in vain. Gov. Rick Perry called a special session to continue redistricting; House Dems decided another walkout was politically untenable, so the fight shifted to the Senate. Democrats, with the help of moderate Republican Bill Ratliff, used Senate rules to kill it again, so Perry called yet another special session. This time, 11 of the 12 Democratic senators went to Albuquerque, for more than a month, until frustrated Houston Sen. John Whitmire declared there was no effective "endgame" and returned.

The resulting map was politically devastating to Democrats generally, but to Austin in particular. Previously, most of liberal Austin had been contained in Lloyd Doggett's compact District 10, comprising the eastern half of Travis County, while the western (and more conservative) half happily fell into the District 21 of San Antonio Republican Lamar Smith. The GOP sought to neuter Travis County by chopping it into three pieces. Smith's district was pulled deeper into West Austin. District 10's compactness (an official goal of redistricting) was abandoned for a monstrosity that reached from West Lake Hills, through north Travis, and all the way to the suburbs of Houston. And that was nothing compared to the new District 25, a freakish thing that stretched from southeast Travis to the border of Mexico and was derisively nicknamed "the fajita strip."

The intention was to force Doggett from Congress – Districts 21 and 10 would be too conservative for him to win, while Republicans hoped District 25 would be too Hispanic to elect an Anglo. Doggett moved to East Austin and won District 25 in 2004 anyway. In 2006, the U.S. Supreme Court said District 23 in South Texas violated the Voting Rights Act, forcing the redrawing of the adjacent District 25 to its current configuration: still anchored in southeast Travis but now including several Central Texas rural counties and no longer reaching to the Rio Grande.

The new boundaries still accomplished the other GOP goals. Despite Austin consistently voting Democratic, no one has seriously challenged Republican Michael McCaul's grip on District 10 since he first won election in 2004. Statewide, the GOP took a 21-11 majority (including party-switcher Ralph Hall in the northwest Dallas suburbs). November's backlash against Obama bumped that up to 23-9.

Same Politics, More People

In 2011, Texas isn't that different politically than it was in 2003: Rick Perry remains governor, and the statewide officeholders all Republican; the GOP still holds about the same number of Senate seats and is much stronger in the House.

On the other hand, the Texas population has changed quite a bit. Already the second-most-populous state behind California, we've grown another 20.6%. Since Congress is limited to 435 members and Texas added more population than any other state by far, that means seats will be taken away from slower-growing states (only depression-hit Michigan actually lost population) before the 2012 election, and Texas will gain four – bringing our delegation from 32 members to 36.

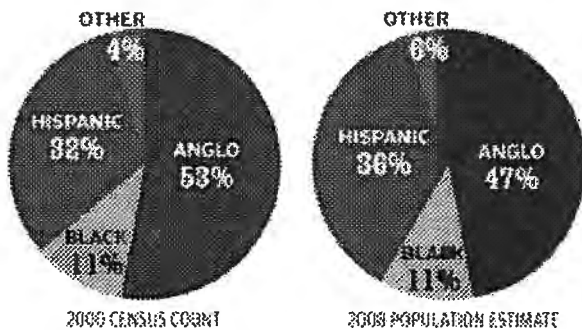
The noisiest scrap likely will be over those four new seats and where to draw them in. But new lines also must be drawn for the state House, Senate, and State Board of Education, and the boundaries will be anything but static because the population has also shifted – the I-35 corridor grew tremendously, while rural West Texas barely changed.

Texas also became browner and blacker. Depending which set of numbers one uses (the state's or the Census Bureau's), around 2008-09 the Hispanic population grew by between 33% and 42% and the African-American population between 16% and 21%. The white population grew by only about 4% or 5%, and while Caucasians remain the largest single ethnic group, they no longer constitute a majority of Texans. If the minority residents continue to vote Democratic, then the question won't be if the Republicans can hold on to power but for how long. Until that changes, they'll surely try to draw lines in a way that maintains dominance for as long as possible. All sides publicly agree that the numbers dictate at least some of those four new congressional seats be "minority opportunity districts" – districts that give racial minorities the opportunity to elect a candidate of *their choice* (note: not necessarily a nonwhite candidate). In fact, federal law dictates that if such a district can be created, then it must. But how many?

"I don't foresee anything at this point," says Amarillo Republican Kel Seliger, chair of the Senate Select Committee on Redistricting in the last Legislature. He declined to speculate without harder numbers (the block-by-block data won't be available until at least mid-February) but said: "It wouldn't surprise me to find that it's the case that we can create two minority districts, three minority districts, [or] conversion of existing districts that are something else to minority opportunity districts. There's just no way to make some sort of empirical judgment. All we can do is allude to those numbers we know – and we know that 60 percent of the increase in Texas is Latino. That would lead us to believe right now that surely we're going to see a greater Latino presence."

San Antonio Republican Sen. Jeff Wentworth was a bit more specific. The congressional delegation's "goal, they tell me, this year, is for all the Republican and Democratic congressmen in the Texas delegation to come up with a map they can all agree on, that would protect every incumbent congressman regardless of party, and then divide the four new districts 2-2," says Sen. Wentworth. "Whether or not that actually happens remains to be seen. If it does, it will be the first time."

Race/Ethnic Composition of the Texas Population



Two or three would not be good enough, argues Democratic consultant Matt Angle. "All four of the new Congressional districts in Texas should be used to restore minority voting strength and to reflect the growing Hispanic and African-American populations," Angle wrote in a post on the Lone Star Project, his pro-Democratic research website. "The only reason Texas is gaining any new Congressional seats is because of the high rate of growth in the Hispanic and African-American populations. ... [I]f the entire population of Texas had grown at only the rate of Anglos, then Texas would not be receiving any new Congressional seats."

As noted above, the Supreme Court ruled that the original 2003 map undermined minority voter strength, but even the court replacement doesn't remedy that, Angle wrote. "In fact, the most striking feature of the current Congressional map is not its overt partisanship, but rather its dramatic under-representation of Hispanic and African-American voting strength."

	2000 Census	2009 Estimates	Growth	% Change	% of Total Growth
White	10,933,313	11,362,445	429,132	4%	11%
Hispanic	6,669,666	9,461,097	2,791,431	42%	71%
Black	2,364,255	2,862,310	498,055	21%	13%
Other	884,586	1,096,450	211,864	24%	5%
Total	20,851,820	24,782,302	3,930,482	19%	100%

Angle reiterated that argument in an interview with the *Chronicle*. "All this talk about two [Democratic seats] and two [Republican], or three and one, all of that would be a map that disproportionately favors Republicans by undermining the voting strength of minorities.

Any map in which Republicans net out more districts than they currently have, and quite frankly, any map that nets out more than they had before the 2010 election, would be a map that undermines the voting strength of blacks and Hispanics. It's not that it helps or hurts Democrats – it's that black and Hispanics would be harmed with those kinds of maps."

Many Democrats think this possibility would be blocked eventually by the Obama administration's Justice Department. Texas is one of several (mostly Southern) states with a history of racial discrimination that are required under the Voting Rights Act to have their plans precleared by either the Justice Department or the D.C. federal district courts. "For the first time since the 1960s, we have a Democratic Justice Department to review the lines through the Voting Rights Act," said Karl-Thomas Musselman, publisher of *Dem blog the Burnt Orange Report*, at a gathering of the party faithful back in November 2010. This "will make a big difference."

Other knowledgeable observers disagree and believe the Republicans won't even bother with the Justice Department and will go directly to the courts. "I think what will happen is Republicans will say [the review process] is unfair," Steve Bickerstaff told the same gathering. "If [the GOP redistricting] is aggressive, you go to the court."

Wentworth, whose district includes part of South Austin, told the *Chronicle* the same thing. "I don't believe it would be in Texas' interest to even go the route of trying to get precleared by the Department of Justice," Wentworth said. "We've always had the option of going to a three-judge federal court in the District of Columbia. We've never taken that route; we've always gone the preclearance route through the Voting Rights division of the DOJ. But I think that would be a waste of time in 2011, and I don't believe we're planning on doing that."

Wentworth advises avoiding the DOJ because "they're not only Democrats, they're partisan Democrats. Before, you had a professional, career Voting Rights division [staff] at the Department of Justice. Now, you have a partisan Democratic Voting Rights division. Many of us, including me, are convinced that there's not a map that we can draw that they would approve, so it's a waste of time and money." He says the Voting Rights division became more partisan "with this administration." (In 2003, Democrats leveled similar charges at the Bush DOJ, noting that the career professionals in the Voting Rights division balked at the map but were overruled by Bush political appointees and then-Attorney General John Ashcroft. As Bickerstaff noted, in 2005 *The Washington Post* uncovered a memo by the head of the division that supported these allegations. The Supreme Court indeed overruled one district in 2006 on VRA grounds, forcing the current map.)

There does seem to be consensus that the four new seats should be somewhere along I-35. According to a report produced by the Texas Legislative Council, an advisory body to the Legislature, 57% of the decade's growth (based on the 2009 estimates) occurred along the I-35 corridor. Another 39% occurred east of that line, and only 4% in West Texas.

"I think the big controversy will be the battle between Hispanics and Republicans over several areas, in particular the area between Tarrant County and Dallas," Bickerstaff says. "The issue is whether there is a sufficient Hispanic population there now to create a Hispanic opportunity district under the Voting Rights Act. [The Mexican American Legal Defense and Education Fund] has wanted that for two decades now; this is the third decade. Each time the Hispanic percentage has grown but not reached the legal requirements. I think there will be considerable attention given that this time." Bickerstaff thinks a similar battle could occur in redrawing the state Senate.

"Clearly, the distribution is going to be along the I-35 corridor and the Rio Grande Valley," says Sen. Seliger. For the Valley, recent Capitol buzz has strongly suggested that Republicans will try to draw a district that could elect to Congress newly turncoat state House Republican Aaron Peña.

Another Fine Mess

So what might all this mean for Travis County? On the congressional level, could the districts get even more warped?

Bickerstaff says no. "It's already done," he says of the ultimately unsuccessful attempts to remove Doggett. "I just don't see a similar effort this time. But I also don't see them restoring Travis County to [a single district]. I think they'll keep Travis County divided, and you'll be left with McCaul, Smith, and Doggett. They'll have to balance population, but the basic structure will stay the same."

Doggett, ever wary of GOP machinations against him, is not so sure. Two of the other main white Dem targets have been picked off – Fort Worth's Martin Frost in 2004 and Waco's Chet Edwards, finally, in 2010 – and he says the GOP regards him as unfinished business. "I've had more than one person tell me that the governor and several legislators have said that any map that provides a district that would allow me to continue in Congress would not be acceptable to them," Doggett says. "About the only way they can achieve that objective ... is to split the county into more pieces. And I'm sure they're contemplating that."

On the legislative level, it seems likely that Austin Sen. Kirk Watson's District 14 – which is most of Travis County, except for the aforementioned sliver of South Austin apportioned to Wentworth – will have to shrink geographically because it's "currently overpopulated by about 90,000 to 100,000 people," says Watson. But Republicans will have to be careful how they chop. "I represent a Senate district that under the Voting Rights Act has a significant minority population, that plays a decisive role in the election of public officials," Watson says. "As a result of that, great care will have to be taken by anybody that is trying to do redistricting. We need to make sure that we protect the minority voting strength and not do anything that would cause a retrogression."

In the House, early speculation that Travis might grow from six districts to seven has largely been discounted. However, Republicans will definitely want to shuffle some voters around to recapture the western districts that they see as rightfully theirs. In 2001, when Travis grew from five districts to six, the Republican-dominated Legislative Redistricting Board (the lieutenant governor, speaker of the house, attorney general, comptroller, and land commissioner, which took over after the House failed to agree on a map) tried to make Districts 47, 48, and 50 as Republican as possible. That effort produced GOP victories in 2004, but Republican incompetence at the national level and locally eventually turned Travis all blue again.

Republicans seem to have given up on rooting Mark Strama out of District 50, but Paul Workman solidly defeated Valinda Bolton in District 47, and the GOP came within an agonizing 12 votes of defeating Donna Howard in District 48 (defeated Republican Dan Neil is still challenging the results in the House). With just a little shifting around, those votes could be found. In a conversation at the Capitol, Howard speculated that Republicans might try the old tactic of pairing incumbents, moving her residence into Strama's district. It's a battle that could get ugly, and one of which Wentworth is weary, even with his party now firmly in power. Known as one of the less partisan of statehouse Republicans – which has drawn him primary challenges in the past – he has long advocated for doing things differently.

"I'm not very optimistic that we'll do anything different in 2011 than we did in 2001," he says, noting that the LRB gets legal control over the process if the Lege fails, and the LRB would now be all-Republican. "For partisan Republicans in the majority ... there's not a lot of incentive to sit down and work out a fair map with the Democratic minority, when they know if they just do nothing and adjourn [at the beginning of June], five Republicans will draw the map, and they can be more partisan than the Legislature.

"I had always hoped when the Democrats were drawing maps to the disadvantage of Republicans, that when we got in power, we would be principled and fair," Wentworth continues. "And we have not been. The U.S. Supreme Court has said we haven't. And that's why I have tried since 1993 to have this responsibility transferred to an evenly divided body of citizens who don't have a personal stake or personal interest outside the public interest

"It's pretty certain it will be another mess," he says. "Neither party handles this well."

Based on 2000 Census numbers and 2009 state estimates, Texas' population probably grew by more than 4 million people in the past decade. Somewhere around 70% of those new residents were Hispanic. Exact numbers for 2010 should be released in mid-February.

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>>> EO

>>>

>>> On Feb 10, 2011, at 7:31 AM, Gerardo Interiano wrote:

>>>

>>> Yeah, we're working with Bonnie and him on that process. They've
>>> asked us for our help with everything.

>>>

>>> From: Eric Opiela [<mailto:eopiela@ericopiela.com>]

>>> Sent: Thursday, February 10, 2011 7:00 AM

>>> To: Gerardo Interiano

>>> Subject: Re: if you have not heard....

>>>

>>>

>>> Just wanted to give you a heads up to make sure you knew. I take it
>>> Burt won't hire someone adverse to our interests....

>>>

>>>

>>> On Feb 10, 2011, at 7:53 AM, Gerardo Interiano <ginteriano@gmail.com> wrote:

>>>

>>> The committee will have their own attorney. It's an issue over who
>>> is the client. My only client is the speaker but obviously I'll be
>>> working very closely with their attorney.

>>>

>>> Sent from my iPhone

>>>

>>> On Feb 10, 2011, at 5:37 AM, Eric Opiela <eopiela@ericopiela.com> wrote:

>>>

>>> FYI-I thought you were the redistricting attorney for House?

>>>

>>> EO

>>>

>>> Begin forwarded message:
>>>
>>> From: jybblb2@aol.com
>>> Date: February 10, 2011 5:10:26 AM CST
>>> To: "Lamar Smith BlackBerry" <CLS.Smith@mail.house.gov>, "Eric opiela"
>>> <eropiela@ericopiela.com>
>>> Subject: Fw: if you have not heard....
>>> Reply-To: jybblb2@aol.com
>>>
>>> Fyi. Lamar you might reach out to solomons and eric and I cld reach
>>> out to cos. See below barry received from his cos they r friends.
>>> -----Original Message-----
>>> From: Barry Brown
>>> To: Jennifer Young Brown
>>> Subject: Fw: if you have not heard....
>>> Sent: Feb 10, 2011 6:02 AM
>>>
>>> I'm friends w/ his CoS. BB Barry Brown Chief of Staff Congressman Michael C.
>>> Burgess, M.D. (TX-26) 2241 Rayburn HOB Washington D.C. 20515
>>> 202-225-7772www.house.gov/burgess From: Bonnie L. Bruce
>>> <Bonnie.Bruce@house.state.tx.us> To: Simon, Jason; Brown, Barry
>>> Sent: Wed Feb 09 21:44:06 2011 Subject: if you have not heard....
>>> The Speaker announced the Redistricting Committee Today.
>>> Representative Solomons was named Chair. I will be the point contact
>>> for the issue, and we will be hiring a redistricting attorney. If you have any questions,
>>> please call me.
>>>
>>> The rest of the committee membership is as follows:
>>>
>>> Vice-Chair Mike Villarreal
>>> Representative Roberto Alonzo
>>> Representative carol Alvarado
>>> Representative Jimmy Don Aycock
>>> Representative Dan Branch
>>> Representative Rob Eissler
>>> Representative Charlie Geren
>>> Representative Patricia Harless
>>> Representative Harvey Hilderbran
>>> Representative Todd Hunter
>>> Representative Jim Keffer
>>> Representative Jerry Madden
>>> Representative Aaron Pena
>>> Representative Larry Phillips
>>> Representative Joe Pickett
>>> Representative Marc Veasey
>>>
>>> Bonnie Bruce
>>> Chief of Staff
>>> Office of State Rep. Burt R. Solomons Room 1W.11 P.O. Box 2910
>>> Austin, TX 78768-2910
>>> 512-463-0478
>>>
>>>
>>>
>>> Sent via BlackBerry by AT&T
>>>
>>>

>
>

DOCUMENT INFO

Filename: Fwd: Ruling in Lepak v. City of Irving
(CVAP apportionment case).msg

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

From: Eric Opiela [eopiela@ericopiela.com]
Sent: Tuesday, February 15, 2011 9:49 AM
To: Lamar Smith camp; Gerardo Interiano; Doug Davis
Subject: Fwd: Ruling in Lepak v. City of Irving (CVAP apportionment case)
Attachments: Lepak SJ Ruling.pdf; Untitled attachment 00658.htm

FYI

Begin forwarded message:

From: "Nina Perales" <nperales@MALDEF.org>
Date: February 15, 2011 9:45:31 AM CST
To: <redistrict-l@ncsl.org>
Cc: <votingrights@civilrightscalition.org>
Subject: Ruling in Lepak v. City of Irving (CVAP apportionment case)
Reply-To: redistrict-l@ncsl.org

Dear Colleagues,

Please find attached the ruling in *Lepak v. City of Irving* rejecting the attempt to force Irving to apportion its City Council districts on the basis of citizen voting age population. Robert Heath defended the City in this case and MALDEF represented Latino defendant-intervenors.

Nina Perales
Director of Litigation
MALDEF
110 Broadway, Suite 300
San Antonio, TX 78205
ph (210) 224-5476 ext 206
fax (210) 224-5382
www.maldef.org

DOCUMENT INFO

Filename: Lepak SJ Ruling.pdf

FOLDER#: Straus072611\Outlook Data
File\Straus\DIS

DOCUMENT INFO

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KEITH A. LEPAK, MARVIN RANDLE,
DAN CLEMENTS, DANA BAILEY,
KENSLEY STEWART, CRYSTAL
MAIN, DAVID TATE, VICKI TATE,
MORGAN McCOMB, and JACQUALEA
COOLEY,

Plaintiffs,

V.

CITY OF IRVING, TEXAS,

Defendant,

V.

ROBERT MOON, RACHEL TORREZ-
MOON, MICHAEL MOORE,
GUILLERMO ORNELAZ,
GILBERT ORNELAZ and AURORA
LOPEZ,

Defendant-Intervenors.

~~~~~

CIVIL ACTION NO.  
3:10-CV-0277-P

## MEMORANDUM OPINION AND ORDER

Now before the Court are (1) Plaintiffs' motion for summary judgment (Docket # 25); (2) City of Irving's motion for summary judgment (Docket # 29); (3) Defendant-Intervenors' motion for summary judgment (Docket # 35); and (4) the United States's brief as amicus curiae (Docket # 41). After careful consideration of the facts, briefing and applicable law, the Court hereby GRANTS the City of Irving's motion for summary judgment.

### **BACKGROUND**

After conducting a bench trial in *Benavidez v. City of Irving*, this Court held that the City of Irving (“City” or “Irving”) violated Section 2 of the Voting Rights Act by electing its city council members on an at-large basis. The Court found the City’s at-large system effectively denied Hispanic voters an equal opportunity to elect representatives of their choice. See *City of Irving v. Benavidez*, 638 F. Supp. 2d 709, 732 (N.D. Tex. 2009). As a result of the ruling, the parties agreed on a new election plan (the “Plan”) that divided the City into six single-member districts, two at-large districts, and a single mayor. The Plan divides the City into six districts that are relative in total population. However, while the total population numbers are roughly equal between districts, the CVAP (citizen voting age population) in District 1 is much less than the CVAP in the other districts.

### **DISCUSSION**

According to Plaintiffs, the Plan substantially dilutes the votes of Irving’s citizens by weighing votes differently depending on where a person lives. They argue the Plan violates the “one-person, one-vote” equal protection principle of the Fourteenth Amendment because the districts’ sizes are based on total population rather than on CVAP. Plaintiffs explain that because District 1 has approximately half the CVAP as at least two other districts, the council member from District 1 can be elected with approximately half as many votes as the council members of the other districts. Plaintiffs conclude that because the voters in District 1 have nearly twice as much voting power as the voters in the other districts, the City is impermissibly weighing the votes of citizens differently merely because of where they reside. At the core of this dispute is whether the City is constitutionally permitted to draw districts based on equal populations as opposed to equal numbers of voters.

In their briefing, Plaintiffs repeatedly cite to *Reynolds v. Sims* for the principle that “[w]ith respect to the allocation of legislative representation, all voters, as citizens of a State, stand in the same relation regardless of where they live.” 377 U.S. 533, 565 (1964).<sup>1</sup> From this passage, Plaintiffs conclude districts must be drawn to contain equal numbers of citizens with the ability to vote. They insist that the Court has unequivocally held the one-person, one-vote requirement is premised on the principle of electoral equality. (Docket # 25 at 11.)

The United States, as *amicus curiae*, argues the Supreme Court also recognized in *Reynolds v. Sims* that total population is an appropriate baseline to use and satisfies the one-person, one-vote principle. (Docket # 32-1 at 2-3 citing 377 U.S. at 542 n.7 & 545-46.) Reynolds states that “[a]s a basic constitutional standard, the Equal Protection Clause requires that the [seats] must be apportioned on a population basis.” *Reynolds*, 377 U.S. at 568. The United States further explains that each and every jurisdiction in Texas, some 340 state, county, and municipality, that has applied for preclearance to the Department of Justice under Section 5 of the Voting Rights Act uses total population in the districting process as the basis for determining whether population is equal among districts. (Docket # 32-2.)

The *Reynolds* court and others like it that have used the terms “citizens” and “persons” interchangeably were not dealing with whether the one-person, one-vote principle requires citizen-voter equality or representational equality. Rather, they were “dealing with situations in which total population was presumptively an acceptable proxy for potentially eligible voters.” *Chen v. City of Houston*, 206 F.3d at 525 (5th Cir. 2000).

---

<sup>1</sup> Plaintiffs also quote the *Reynolds* passage: “The basic principle of representative government remains and must remain unchanged – the weight of a citizen’s vote cannot be made to depend on where he lives.” 377 U.S. at 567.

One case that has addressed this precise issue is the Fifth Circuit case of *Chen v. City of Houston*, in which the plaintiffs argued the city violated the “one-person, one-vote” requirement when it designed its districts to equalize total population instead of CVAP and when the city knew certain districts had extremely high ratios of noncitizens. *Chen*, 206 F.3d 502, 522. The Fifth Circuit recognized the “Supreme Court has been somewhat evasive in regard to which population must be equalized.” *Chen*, 206 F.3d at 524. The court acknowledged there is “ample language in the [Supreme Court] opinions that strongly implies that it is the right of the individual potential voter that must be protected.” *Id.* at 525. “But, . . . other language can be found that implies that representational equality is the ideal.” *Id.* After conducting an in-depth analysis of the laws and legislative history governing the case, the *Chen* court held that the choice between using total population or CVAP should be left to the legislative body for determination.

The Fourth and Ninth Circuits have also addressed the issue, with the same outcome. The Ninth Circuit found that total population is a permissible method for measuring population when known significant concentrations of those not eligible to vote exist. *See Garza v. County of Los Angeles*, 918 F.2d 763, 775-76 (9th Cir. 1990). The Fourth Circuit, when dealing with the analogous issue of districting when people below the voting age were unevenly distributed, stated that the choice between total population or a measurement of potential voters must be left to the legislative body. *See Daly v. Hunt*, 93 F.3d 1212, 1227 (4th Cir. 1996).

Plaintiffs try to distinguish *Chen* from this case by arguing in a footnote that the variance between population and voters in *Chen* is considerably less than the variance in this case. They contend the “City of Houston had not diluted the vote of citizens by approximately half, as the City of Irving has done here. Rather, the *Chen* court simply noted that the ‘maximum variance’ of CVAP



between the City of Houston's districts 'exceeds [a] ten percent threshold.'" (Docket # 25 at 15 n. 18.) Plaintiffs infer the City of Houston's variance between population and eligible voters was just slightly more than ten percent, whereas here, the variance is considerably higher. Plaintiffs then contend the *Chen* court called the CVAP vote dilution claim "extremely close and difficult." (Docket # 25 at 15 n. 18.)

First, the inference Plaintiffs make – that the maximum variance in *Chen* was close to ten percent – is not supported by the actual evidence. The petition for writ of certiorari in *Chen* states that, when measured by CVAP, the maximum deviation between districts in the challenged Houston plan was 32.5%. Appellate Pet. *Chen v. City of Houston* (No. 99-1946), 2000 WL 34014393 at \*3.

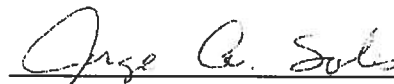
Second, the Fifth Circuit did not characterize its CVAP decision as a close call. It described the racial gerrymandering claim (*Shaw* claim) as "extremely close and difficult." *Chen*, 206 F.3d at 505. Later in the opinion, the court does acknowledge that "while this [CVAP] issue is a close question, we find that the choice of population figures is a choice left to the political process." *Id.* at 523. However, the "close question" was not whether the amount of vote dilution was extreme enough to warrant judicial intervention. The "close question" referred to whether the courts should intervene in the selection of a population baseline. The Fifth Circuit held they should not. *Id.*

The Court also rejects Plaintiffs' attempt to limit the *Chen* holding to "the specific circumstances of that case." (Docket # 25 n. 18.) Though the court does state at the beginning of its opinion that "the use of total population to track the size of the districts does not, under these circumstances, violate the Equal Protection Clause," it concludes its opinion with the following language, "But in [the] face of the lack of more definitive guidance from the Supreme Court, we conclude that this eminently political question has been left to the political process." *Chen*, 206 F.3d

at 505, 528. Plaintiffs have not demonstrated that, under these circumstances, the Fifth Circuit would require this court to intervene in the political process and judicially mandate Irving to track the size of the districts by CVAP instead of by population.

For these reasons, the Court hereby GRANTS summary judgment for the City of Irving, DENIES summary judgment for Plaintiffs, and DENIES Defendant-Intervenors' motion for summary judgment as MOOT.

It is SO ORDERED, this 11<sup>th</sup> day of February 2011.



JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE

## DOCUMENT INFO

Filename: MALC Intervenes in Teuber case.msg

FOLDER#: Straus072611\Outlook Data  
File\Straus\DIS

DOCUMENT INFO

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**From:** Eric Opiela [eopiela@ericopiela.com]  
**Sent:** Friday, February 25, 2011 3:43 PM  
**To:** Lamar Smith camp; Gerardo Interiano  
**Cc:** jybblb2@aol.com Brown  
**Subject:** MALC Intervenes in Teuber case

Begin forwarded message:

**Sent:** Friday, February 25, 2011 12:16 PM

[Home](#) > [Blogs](#) > [enrique rangel's Blog](#)

• 

## **First redistricting fight starts**

Submitted by [Enrique Rangel](#) on Thu, 02/24/2011 - 8:57pm

The Texas Legislature has yet to take on redistricting this session but the first battle is already being fought - outside of Austin.

The Mexican American Legislative Caucus announced today that it filed a motion "to intervene in the first of many cases relating to the decennial redistricting."

In MALC's view, the Teuber v. Texas case filed in federal court in Sherman "is a direct assault on Latino majority districts."

MALC did not spell out in more detail what the fight is about and it is too early to predict the outcome of this case. But Latino groups, particularly the Mexican American Legal Defense and Educational Fund, have already made it clear they would not be shortchanged in the upcoming redistricting fight.

They argue that the explosive population growth Texas experienced in the past decade was fueled by Hispanics and want their share of political representation.

For instance, there is already talk of a Latino majority district in Dallas, which registered one of the largest population increases in the state. Again, mainly because of Hispanics.

We should see how these fights turn out once the Legislature takes on redistricting, which should be in the next few weeks.

# DOCUMENT INFO

Filename: Swing State Project-Dem's predictions of  
TX Cong Map.msg

FOLDER#: Straus072611\Outlook Data  
File\Straus\DIS

# DOCUMENT INFO

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**From:** Eric Opiela [eopiela@ericopiela.com]  
**Sent:** Saturday, March 19, 2011 10:29 PM  
**To:** Lamar Smith camp; jybb1b2@aol.com Brown  
**Cc:** Gerardo Interiano; Doug Davis  
**Subject:** Swing State Project-Dem's predictions of TX Cong Map  
**Attachments:** LikelyState2.jpg; LikelyHouston2.jpg; LikelyDFW2.jpg; LikelyCentral2.jpg; CopyofLikelyValley2.jpg; LikelyEIPaso2.jpg; printer-icon.GIF; email-icon.GIF

From tonight's Swing State Project....

## **Texas: Repredicting Redistricting**

by: blank

*Sat Mar 19, 2011 at 4:33 PM EDT*

Previously, I created a [24R-12D map predicting Texas redistricting](#). Since then, my reading of the tea leaves (mostly Aaron Pena's party switch) has convinced me to revise my predictions somewhat. At the very least we can expect the state to pass a more Republican friendly map, which will almost certainly be challenged in the courts. Something close to the previously drawn map might be enacted if the state loses the court battle. This map then is more of a prediction of what the state might pass before the court battle.

### **blank :: Texas: Repredicting Redistricting**

The map has the following objectives:

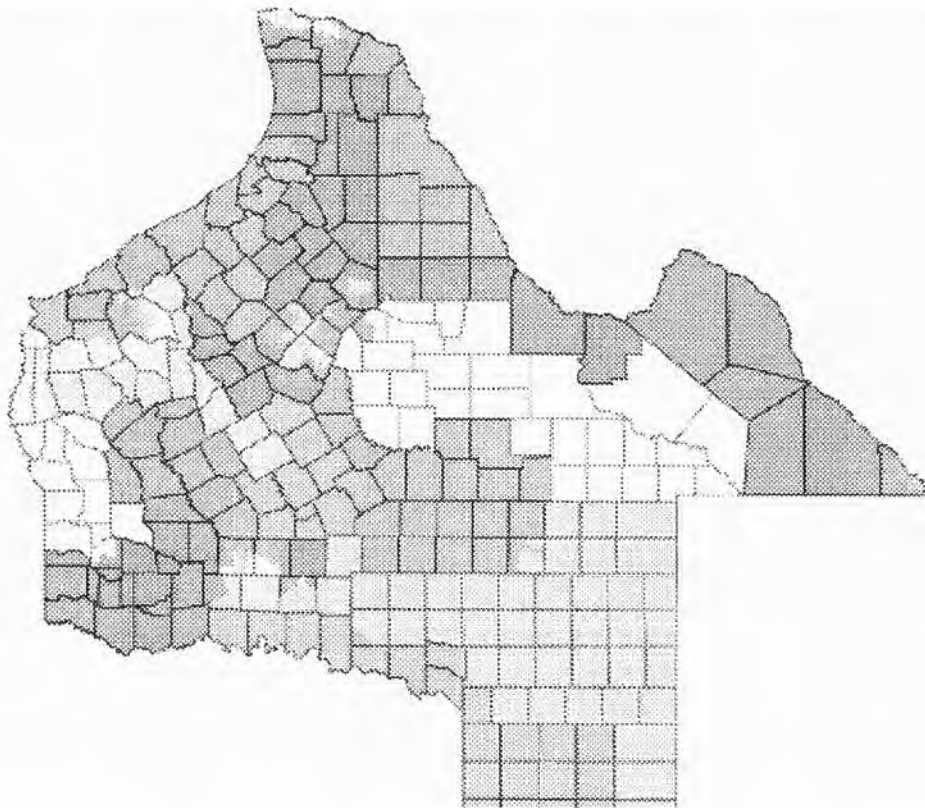
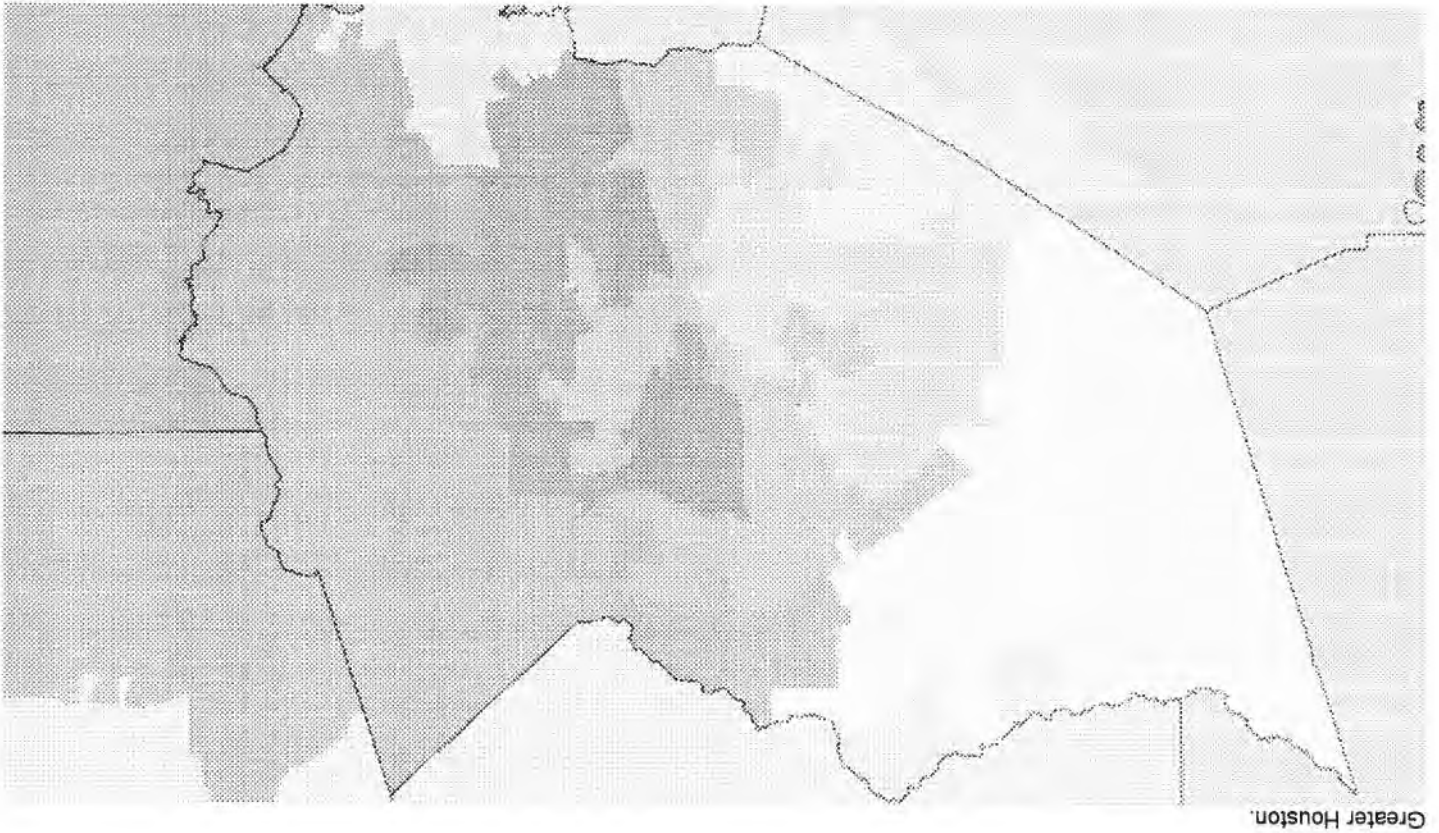
- 1) Keep all incumbents with their base voters, except McCaul.
- 2) Draw a Republican safe district for McCaul.
- 3) Draw a new non-VRA Republican safe district for Farenthold in Corpus Christi.
- 4) Draw two new Republican safe districts in Harris and Johnson.
- 5) Draw two VRA swing districts for Canseco and Pena in south Texas.
- 6) Draw a new VRA Democratic safe district in DFW.
- 7) Draw a VRA Democratic safe district in Austin.

The data is based upon the 2010 census. For the partisan data, I matched the precincts that matched the 2008 test data precincts, and then I used regression models based upon the county level voting and demographics for each of the parties on the remaining precincts. Based upon residual analysis and validation data sets, this approach appears to be pretty accurate. Here are the maps with the pretty colors. (I used only nine colors that I duplicated each four times.)

The state.

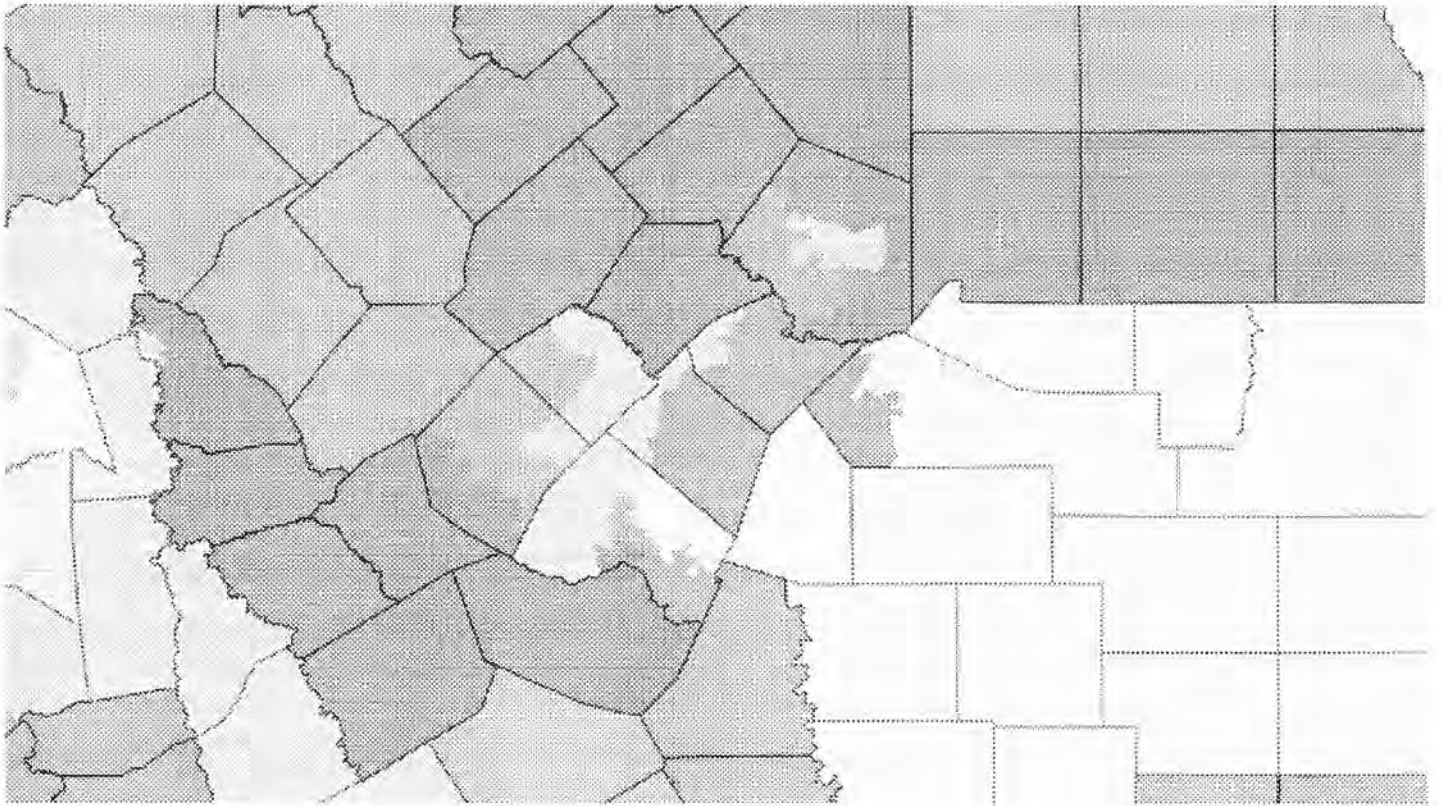


DFW.

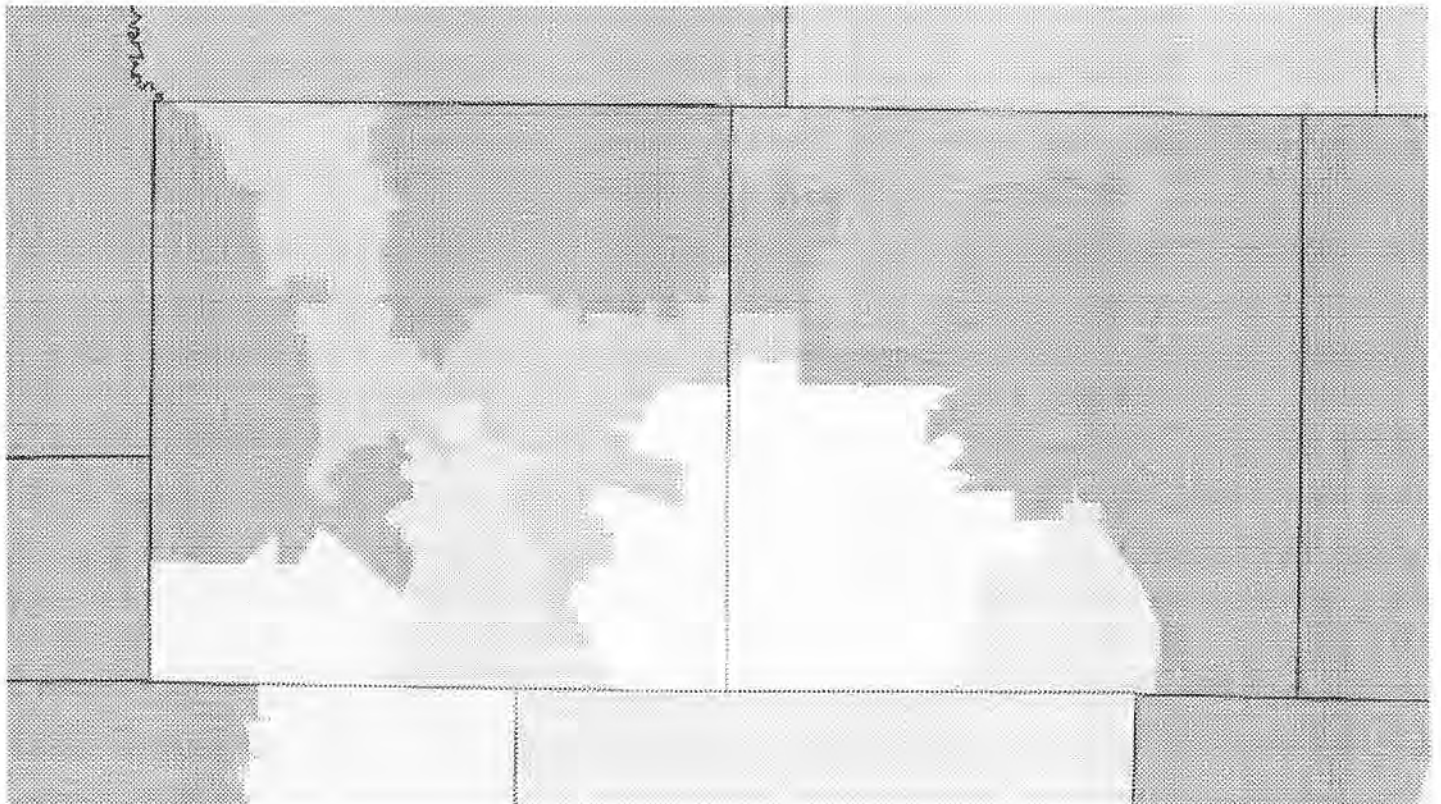




The Valley.



Central Texas.

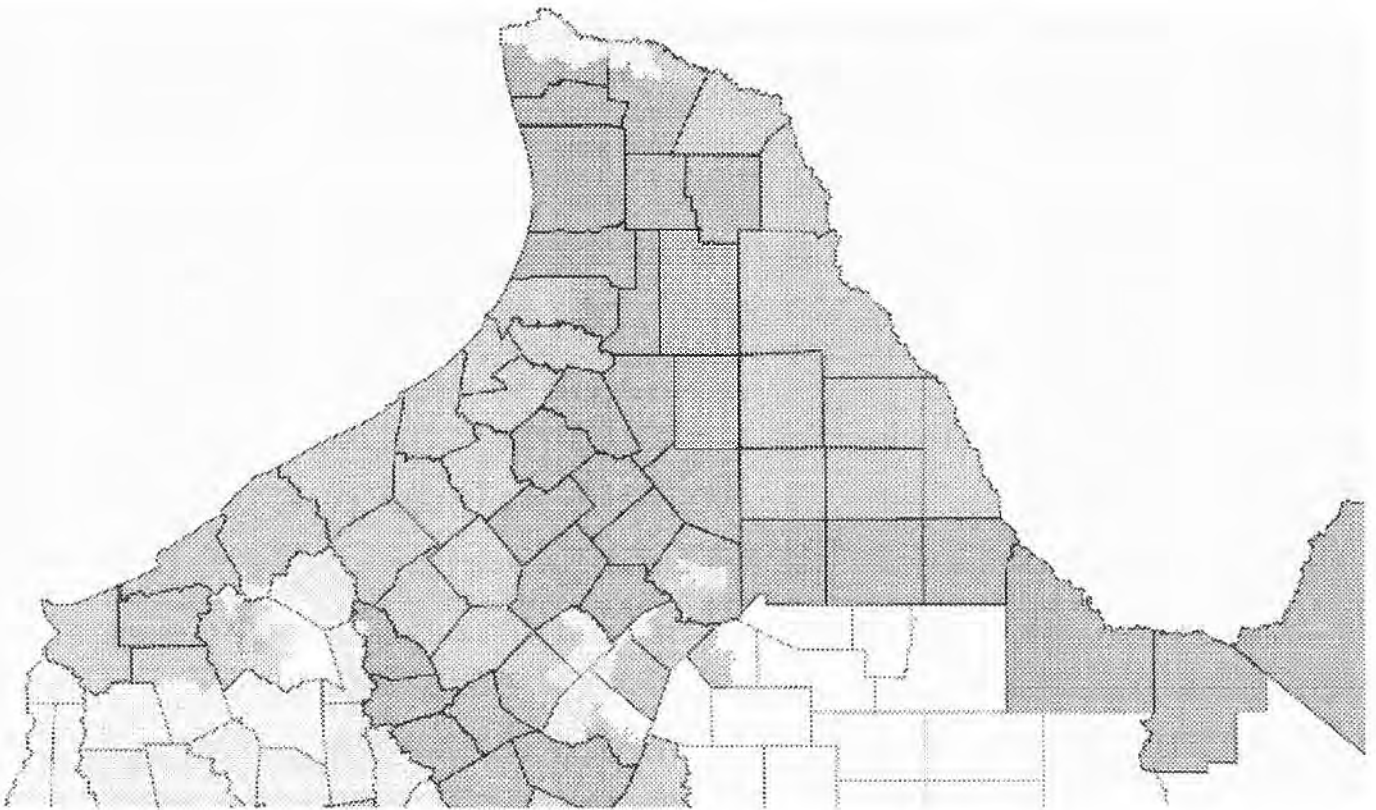




CD 1: (Yellow) [31% Obama - 69% McCain, Wh 64%, BI 18%, Hisp 15%] Tyler based district for Gohmert.



El Paso.



CD 2: (Brown) [42% Obama - 58% McCain, Wh 50%, BI 22%, Hisp 15%] Northeast Harris/Jefferson based district for Poe.

CD 3: (Silver) [42% Obama - 58% McCain, Wh 52%, BI 11%, Hisp 20%] Plano based district for Sam Johnson.

CD 4: (Indigo) [31% Obama - 69% McCain, Wh 69%, BI 11%, Hisp 14%] Rockwall based district for Hall.

CD 5: (Blue) [41% Obama - 59% McCain, Wh 55%, BI 15%, Hisp 26%] Dallas based district for Hensarling.

CD 6: (Red) [33% Obama - 67% McCain, Wh 65%, BI 13%, Hisp 18%] Ellis County/Arlington based district for Barton.

CD 7: (Violet) [45% Obama - 55% McCain, Wh 53%, BI 9%, Hisp 26%] Houston based district for Culberson. There is almost certainly a way to make this district safer than currently drawn.

CD 8: (Silver) [24% Obama - 76% McCain, Wh 74%, BI 6%, Hisp 16%] Montgomery County based district from Brady.

CD 9: (Silver) [71% Obama - 29% McCain, Wh 13%, BI 29%, Hisp 43%] Houston based district for Al Green.

CD 10: (Brown). [40% Obama - 60% McCain, Wh 70%, BI 4%, Hisp 22%] Austin/West Texas district for McCall. Previously, I drew McCall to Johnson County. However, since I am no longer drawing West Texas districts for both Canseco and a VRA-protected Democrat, I had more real estate for McCall to the West.

CD 11: (Yellow) [31% Obama - 69% McCain, Wh 60%, BI 3%, Hisp 33%] Midland based district for Conaway that now helps crack Austin.

CD 12: (Blue) [39% Obama - 61% McCain, Wh 56%, BI 8%, Hisp 32%] Fort Worth based district for Granger.

CD 13: (Green) [24% Obama - 76% McCain, Wh 69%, BI 6%, Hisp 21%] West Texas based district for Thornberry.

CD 14: (Red) [36% Obama - 64% McCain, Wh 57%, BI 11%, Hisp 28%] Galveston based district for Paul.

CD 15: (Silver) [67% Obama - 33% McCain, Wh 9%, BI 0%, Hisp 89%] Hidalgo County based district for Hinojosa that now goes into Cameron. In the previous 24-12 map, several comments noted that a similar district may be too Hispanic. However, based upon my reading of *Luiac v. Perry*, this was not established. If there is another court case that established that districts may not be too Hispanic, then please let me know.

CD 16: (Red) [66% Obama - 34% McCain, Wh 13%, BI 2%, Hisp 82%] El Paso based district for Reyes.

CD 17: (Orange) [37% Obama - 63% McCain, Wh 60%, BI 15%, Hisp 21%] College Station/Waco based district for Flores that now goes East. Chet Edwards could make a comeback, but I doubt it.

CD 18: (Green) [84% Obama - 16% McCain, Wh 10%, BI 45%, Hisp 40%] Houston based district for Jackson.

CD 19: (Violet) [27% Obama - 73% McCain, Wh 57%, BI 5%, Hisp 36%] Lubbock based district for Neugebauer.

CD 20: (Violet) [65% Obama - 35% McCain, Wh 17%, BI 6%, Hisp 74%] San Antonio based district for Gonzalez.

CD 21: (Red) [41% Obama - 59% McCain, Wh 52%, BI 9%, Hisp 34%] San Antonio based district for Smith.

CD 22: (Orange) [40% Obama - 60% McCain, Wh 48%, BI 13%, Hisp 24%] Sugar Land based district for Olson.

CD 23: (Indigo) [51% Obama - 49% McCain, Wh 28%, BI 3%, Hisp 65%] North Bexar based district for Canseco. As noted previously, this

district is very similar to his current district, and Democrats will likely win it back before the end of the decade.

CD 24: (Yellow) [38% Obama - 62% McCain, Wh 59%, BI 10%, Hisp 19%] Southlake/Coppell based district for Marchant. This district is significantly safer than his current district.

CD 25: (Orange) [64% Obama - 36% McCain, Wh 35%, BI 11%, Hisp 50%] Austin based district for Doggett is now VRA protected.

CD 26: (Orange) [36% Obama - 64% McCain, Wh 67%, BI 7%, Hisp 18%] Flower Mound/Denton based district for Burgess that no longer cracks the African American community in southeast Fort Worth.

CD 27: (Blue) [47% Obama - 53% McCain, Wh 31%, BI 3%, Hisp 65%] New Hidalgo based VRA district for Pena. This district is obviously the biggest case against this map, because it retrogresses the old CD 27 and split Nueces County. If not ruled out by the courts though, it would be a huge Democratic target that they would have an excellent chance of winning before the end of the decade.

CD 28: (Brown) [73% Obama - 27% McCain, Wh 6%, BI 0%, Hisp 93%] Laredo based district for Cuellar. Previously, I drew this one less safe. However, if the Republicans are going to pack, then they will almost certainly pack with Cuellar, who is probably in good shape no matter what.

CD 29: (Blue) [63% Obama - 37% McCain, Wh 12%, BI 10%, Hisp 76%] Houston based district for Gene Green.

CD 30: (Indigo) [74% Obama - 26% McCain, Wh 21%, BI 46%, Hisp 27%] Dallas based district for Eddie Bernice Johnson that now goes into the African American communities in East Arlington and Southeast Fort Worth.

CD 31: (Indigo) [44% Obama - 56% McCain, Wh 63%, BI 7%, Hisp 22%] Williamson County based district for Carter.

CD 32: (Violet) [44% Obama - 56% McCain, Wh 59%, BI 10%, Hisp 22%] North Dallas based district for Sessions. Like CD 24, this district is significantly safer than his current district.

CD 33: (Green) [34% Obama - 66% McCain, Wh 64%, BI 12%, Hisp 19%] New Johnson County based district for some Republican like Brian Birdwell.

CD 34: (Green) [71% Obama - 29% McCain, Wh 15%, BI 18%, Hisp 64%] New Dallas based VRA district for some Democrat like Royce West or Rafael Anchia.

CD 35: (Brown) [40% Obama - 60% McCain, Wh 45%, BI 5%, Hisp 47%] Corpus Christi based district for Farenthold. It is no longer a VRA district since it extends north.

CD 36: (Yellow) [35% Obama - 65% McCain, Wh 51%, BI 11%, Hisp 28%] New Harris County based district for some Republican like Dan Patrick or Debbie Riddle.

Overall 24 R - 10 D - 2 Swing.

I imagine that there are several Democrats worried about such a map as this one, and they are hoping the Obama DOJ and/or Lulac is prepared to prosecute such a map. While I do hope such a map is prosecuted, since it clear cracks Nueces, I actually think that this may be Nietzsche map for Democrats. In the previous 24-12 map, there was not a single swing district for Democrats to target, whereas in this 24-10-2 map there are two in South Texas. I am sure most Democrats would prefer 2 safe districts rather than 2 swing districts, which is the net difference between the two maps. However, Democrats would probably spend upwards of \$2-\$4 million every other year in South Texas on 2 districts that will likely turn Democratic eventually. That could dramatically improve the local parties in Hidalgo and Bexar, which is necessary for the state to turn blue. A similar example would be Martin Frost's district. Yes, Democrats lost one of their best congressmen. However, many Dallas Democrats will point to the money spent on the 2004 CD-32 race as one of the reasons for Dallas turning solidly blue, which it is today. Furthermore, Dallas Democrats are likely to get back a district similar to Frost's old district in this



round of redistricting anyway. So, in the end, Dallas Democrats lost a powerful congressman for 6 years, while they rapidly built themselves into a powerful local party that claims most of the county positions. Meanwhile Republicans gained a backbencher named Kenny Marchant. Certainly having your backs up against a wall in swing districts is not the preferred method of party building. However, there is no doubt that well-built turnout operations in Bexar and Hidalgo would pay dividends at the top of the ticket.

[Update] I should have mentioned this originally. I would be remiss in not giving lots of credit to Greg Wythe. His posts on Lloyd Doggett and Aaron Pena were inspirations for CDs 25 & 27 on this map. Also, rdelbov has been predicting a similar set of districts in South Texas for some time.

Tags: Redistricting, Texas, (All Tags)

 Print Friendly View  Send As Email

Texas: Repredicting Redistricting | 12 comments

?

I don't think this is very plausible. I have a lot of respect for Texas House Speaker Joe Strauss, and he is smart enough to know that you cannot draw a district along the Mexican border like your grey district is.

That is racial gerrymandering. No court in the country, not even the Roberts Supreme Court would allow such a district to stand.

21, male, TX-08 (home), LA-06 (college, voting)

by: sschmi4 @ Sat Mar 19, 2011 at 16:10:49 PM CDT

Agreed

Nor will a 93% Hispanic district like this 28th be drawn. Hispanic districts will be kept under 80% wherever possible. Thus the new Valley seat will be more Hispanic than this one drawn for Peña.

20 years old, male, GA-12 (home), GA-10 (school); previously lived in CA-29, CA-28, CA-23, IL-06, IL-14, GA-01.

by: Nathaniel90 @ Sat Mar 19, 2011 at 16:19:43 PM CDT

[ Parent ]

Yeah.

Straus is a trade up from the partisan hack that Cradick was.

Ad hoc, ad loc and quid pro quo!

So little time, so much to know!

by: LookingOver @ Sat Mar 19, 2011 at 16:31:37 PM CDT

[ Parent ]

Court Case?

That is racial gerrymandering. No court in the country, not even the Roberts Supreme Court would allow such a district to stand.

Can you cite a court case saying a similar district is racial gerrymandering? I ask, because short of an obvious court case against such a gerrymander, I could easily see the TX GOP proposing such a district.

by: blank @ Sat Mar 19, 2011 at 21:28:58 PM CDT

[ Parent ]

Weird

Why would Pena run for House? Is it because it's the only chance he has to win something since there is no way he can win his district as a Republican?

*Ad hoc, ad loc and quid pro quo!*  
*So little time, so much to know!*

*by: LookingOver @ Sat Mar 19, 2011 at 16:27:41 PM CDT*

**I don't think**

he is running for the House. Texas won't split counties in redistricting for State House seats when unnecessary so he can't survive. However, a new Coastal Bend SD is calling his name.

Thoughts:

Hunter sits on the redistricting committee and is looking to draw himself a Corpus Christi based district where he will primary Farenthold and win big. This map looks pretty accurate as to what Hunter is looking for (inclusion of his HD which is Nueces, San Patricio, Aransas and Calhoun Counties) except he won't want to include all of St. Rep Geanie Morrison's counties.

Former St. Rep Yvonne Gonzalez Toureilles (D-Alice) who used to represent the northern Republican areas of the district drawn for Pena is young, extremely electable and would win herself a Congressional seat under this map.

Republicans must be very careful in South Texas, DFW and Houston. I've heard from my sources in several offices of members on redistricting that Republican's want to shore up Canseco and pick up two of the seats to make sure that a court doesn't get to redraw the entire map. This would be a disaster for there incumbents in Houston and DFW.

*Conservative Democrat, TX 27*

*by: Bode @ Sat Mar 19, 2011 at 16:44:32 PM CDT*

**[ Parent ]**

**Thanks for doing this map**

I like several aspects of it and it very well could be predictive in many ways. Is it legal? Will be it fought over in court if you do it this way? This map or any other GOP map will end up in court. Bank on it.

Ist let me say this. Have you been reading my posts? This is about as close to my various suggestions as to what the GOP should so as I have seen. Spot now and truly great work.

2nd if I had one little suggestion that would be to somehow get Consecos's home town, not longer his residence, of Laredo in his district. You would have to swap out stuff in three seats to do it. Oh never mind I like your map as it is.

Is this map legal? I would give it a 100% aokay from VRA & legal precedence standpoint. Not a doubt, IMO, that this map would stand up to legal scrutiny.

Too many hispanics in the valley district? There is a seat in NY with 3% white population. Who says there is a quota on the low or high side?

This map clearly maintains the VRA status of CD15, CD23, CD27 and CD28 in valley area. Plus CD29 is more hispanic and there is a new hispanic seat in DFW.

The hispanic % are apparently maintained in the Valley and this map is clearly no more of a gerrymander then NY, FL, NC, IL, AZ and VA is right now. This seat maintains current VRA seats and improves the chance of hispanics winning three more seats.

There is no logical judicial reason for hispanics not to be 80% plus in a seat when there is precedence for numerous other +80% minority seats in the USA. I note in CA you are a 77, 70, 65 and 62% hispanic seats that are literally side by side now so if someone's



contention is that seats should 69-69-69 hispanic instead of showing variations in numbers due to redistricting decisions there is ample precedence for packing hispanic voters in one seat.

So good work.

by: rdelboy @ Sat Mar 19, 2011 at 16:44:20 PM CDT

There's no district in NY with 3% white population...

16, Male, MI-01

by: Menhen @ Sat Mar 19, 2011 at 20:54:12 PM CDT

[ Parent ]

NY16 is 2.9% white per my Almanac of American politics

South Bronx is heavily non white.

NY6 is 12.8% white but could be under 10% now--not sure about 2010 numbers

CA31 9.8% white

CA32 14.8% white

CA34 11.4% white

CA35 10.4% white

CA38 13.6% white

are the other championship non white seats.

I have not really looked these numbers before. stunning in a way.

by: rdelboy @ Sat Mar 19, 2011 at 21:17:16 PM CDT

[ Parent ]

oh right

I forgot that "white" includes some hispanics. Wikipedia said NY-16 is 20% white, but 63% Hispanic and 36% black, which adds up to only about 4% "everyone else"

16, Male, MI-01

by: Menhen @ Sat Mar 19, 2011 at 21:23:40 PM CDT

[ Parent ]

spot on and yes the quick facts from

census folks cause me considerable confusion.

by: rdelboy @ Sat Mar 19, 2011 at 21:48:28 PM CDT

[ Parent ]

Credit too.

1st let me say this. Have you been reading my posts? This is about as close to my various suggestions as to what the GOP should so as I have seen. Spot now and truly great work.

Yes, I gave you credit for it in my update.

2nd If I had one little suggestion that would be to somehow get Consesco's home town, not longer his residence, of Laredo in his district. You would have to swap out stuff in three seats to do it. Oh never mind I like your map as it is.

Not a chance. Henry Cuellar would win any district that includes Laredo.

by: blank @ Sat Mar 19, 2011 at 21:54:47 PM CDT

## DOCUMENT INFO

Filename: Swing State project-A look at South Texas  
Redistricting.msg

FOLDER#: Straus072611\Outlook Data  
File\Straus\DIS

DOCUMENT INFO

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**From:** Eric Opiela [eopiela@ericopiela.com]  
**Sent:** Sunday, March 20, 2011 7:58 PM  
**To:** Lamar Smith camp; jybb2@aol.com Brown  
**Cc:** Doug Davis; Gerardo Interiano  
**Subject:** Swing State project-A look at South Texas Redistricting  
**Attachments:** Screenshot2011-03-20at123504AM.png

Another dem perception of what Republicans would do. Note no new Hisp district in S Texas.

EO

## **A Look at Southern Texas Redistricting**

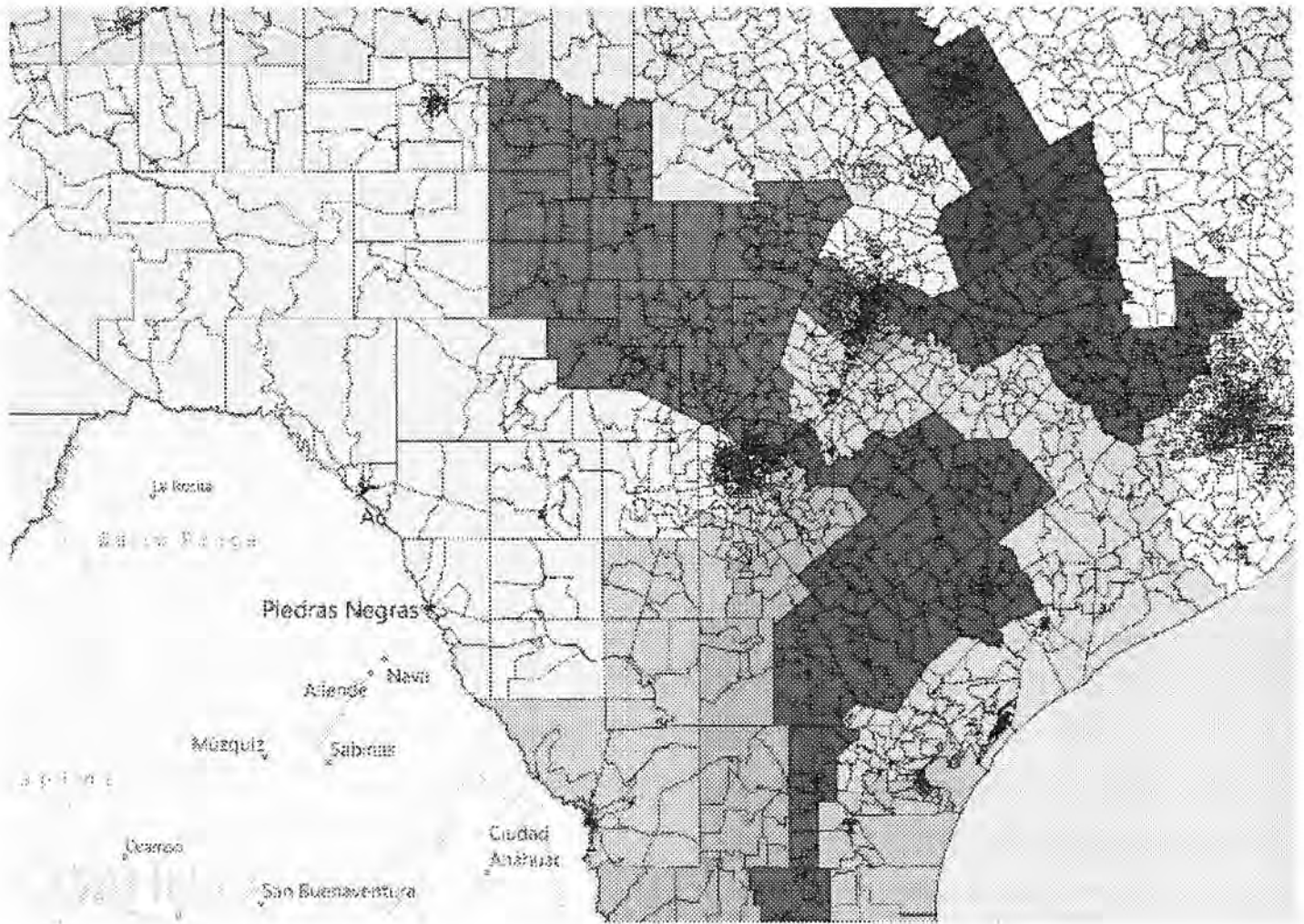
by: nycyoungin

*Sun Mar 20, 2011 at 1:50 PM EDT*

I was working on an extended redistricting of Texas, but I accidentally closed out the file! I had saved it using an .RTF, but I don't know how to open it (can anyone help with that??). But anyway, I did take a photoshot of Southern Texas before I closed out, and I think it might be worthwhile to examine what redistricting will look like along the border.

nycyoungin :: A Look at Southern Texas Redistricting





I used the 2010 Census numbers for this, so all follow the VRA. I also plugged in the partisan data for TX-23 and found that if you attach the district to San Angelo, you get a Obama 44% district and VAP of 59% Hispanic. Pretty cool!

I drew an extra fajita strip (purple) that went about 49% for Obama, while being around 60% VAP. The other Hispanic districts (TX-15, 20, 28, 35) are all around 70% VAP. The new TX27 (green) is safe for Farenthold (back-of-the-envelope calculations say that it went 41% for Obama).

Also, as you can see, McCaul is significantly safer, it's now a 38% Obama district. However, and this is important, the estimations under the partisan data are wildly different than the actual Census numbers: the district is actually far more Hispanic under the 2010 numbers. In fact, it's only 60% white VAP, and less so with the total numbers. Austin is far more Hispanic that one would imagine.

Also, Carter is made a lot safer in his district by removing Killeen to the super-duper red TX-11.

So tell me what you think! Sorry I don't have the rest available—I will if someone helps me out. I do think this is what's going to happen, though.

## DOCUMENT INFO

Filename: Latino Redist Summit video.msg

FOLDER#: Straus072611\Outlook Data  
File\Straus\DIS

DOCUMENT INFO

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**From:** Eric Opiela [eopiela@ericopiela.com]  
**Sent:** Saturday, April 02, 2011 10:48 AM  
**To:** lamarsmith21@gmail.com camp; Gerardo Interiano  
**Subject:** Latino Redist Summit video

Have we gotten any reports from what they discussed at their LULAC/MALDEF redistricting summit?

Interesting video that made it out from the Latino Redistricting Summit last weekend.

It's short, 3 mins, Jose Angel Gutierrez, Attorney from Dallas,

<http://www.youtube.com/watch?v=kR1gTADz77o>



## DOCUMENT INFO

Filename: Re: .msg

FOLDER#: Straus072611\Outlook Data  
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DOCUMENT INFO

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**From:** Dendav [dendav93@austin.rr.com]  
**Sent:** Sunday, April 03, 2011 9:37 PM  
**To:** Smith, CLS  
**Cc:** eopiel@ericopiela.com; Brown, Jennifer Y.  
**Subject:** Re:

Lamar,

I will check on this tomorrow and get back to you. DD

Sent from my iPhone

On Apr 3, 2011, at 7:51 PM, "Smith, CLS" <[CLS.Smith@mail.house.gov](mailto:CLS.Smith@mail.house.gov)> wrote:

> Denise-

> We have all benefited from talking w tom phillips and sam cooper. Wld u thank the speaker for making them available. And we will appreciate their taking a look at our proposed map in the next day or so. Also I think it will be of interest to all of us how the clearance and appeals process is likely to unfold. For exp we agree that we are not going to seek doj preclearance but will go to a three judge panel in dc. Who is likely to be picked. (Three will be chosen from close to 30 two thirds of whom have been appointed by dem presidents. ) This is another reason why map needs to be balanced if we are going to avoid having a court draw the map. The panels decision will be appealed by some party. Who is likely to hear appeal. Then will it go to scotus. How long will it take etc. Could tom and sam give you a memo on this process with some strategic advice that might be helpful in persuading st reps and others to support our proposal.

> Many thanks.

> Lamar

## DOCUMENT INFO

Filename: Fwd: Politico: Smith, Barton in Texas map  
dust-up.msg

FOLDER#: Straus072611\Outlook Data  
File\Straus\DIS

DOCUMENT INFO

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**From:** Eric Opiela [eopiela@ericopiela.com]  
**Sent:** Monday, April 04, 2011 9:16 AM  
**To:** Gerardo Interiano  
**Subject:** Fwd: Politico: Smith, Barton in Texas map dust-up

Begin forwarded message:

**From:** "Brown, Jennifer Y." <[Jennifer.Y.Brown@mail.house.gov](mailto:Jennifer.Y.Brown@mail.house.gov)>  
**Date:** April 4, 2011 8:20:59 AM CDT  
**To:** "Eric Opiela" <[eopiela@ericopiela.com](mailto:eopiela@ericopiela.com)>  
**Subject:** FW: Politico: Smith, Barton in Texas map dust-up

Fyi...

Jennifer Young Brown  
Chief of Staff  
Congressman Lamar Smith  
2409 Rayburn H.O.B  
202 225 4236 phone  
202 225 8628 fax

---

**From:** Scales, Sally-Shannon  
**Sent:** Monday, April 04, 2011 9:20 AM  
**To:** Brown, Jennifer Y.  
**Subject:** Politico: Smith, Barton in Texas map dust-up

**Smith, Barton in Texas map dust-up**  
By: John Bresnahan  
Politico  
April 4, 2011

A bitter, behind-the-scenes fight has broken out among Texas Republicans over redistricting, pitting Rep. Lamar Smith against longtime colleague Rep. Joe Barton.

The dispute is over the makeup of four new congressional districts for the Lone Star State, and centers on the racial balance — including the controversial issue of “bleaching,” or including more white voters in a district — of the new political map for Texas.

At stake in this controversy is the political power of Hispanics in the nation’s second most populous state, as well as the future political careers of some of its most powerful Republican incumbents. The GOP currently holds a 23 to 9 edge over Democrats in the delegation. But with four new districts being created, Republicans are taking ink to the map to ensure their political safety while trying to avoid running afoul of federal voting rights law.

Smith, chairman of the House Judiciary Committee and the point man on redistricting for Texas Republicans, is pushing to evenly split four new districts between Republicans and Democrats, acknowledging that Texas’s surging Hispanic population will gain minority-majority seats in the Dallas and Houston areas. According to 2010 Census

data, Texas is now home to 9.5 million Hispanics, 38 percent of the state's overall population, yet only six members of the congressional delegation are Hispanic, including freshman GOP Reps. Francisco Canseco and Bill Flores.

Smith, described by fellow Republicans as being driven more by political pragmatism than by partisanship, has been quietly huddling with Rep. Henry Cuellar (D-Texas) to work out a bipartisan compromise on the new districts.

And with concerns over the Voting Rights Act — which bars congressional districts from being drawn in a way that dilutes minority voting power — coming into play, Smith brought in an official from the Texas Supreme Court last week to tell GOP lawmakers that there is no way to craft solid GOP districts that would meet Justice Department or federal court approval. Under the Voting Rights Act, Texas is one of 16 states that needs outside approval to implement new state and federal districts.

But Barton, who was passed over in January by House Speaker John Boehner (R-Ohio) for the the powerful Energy and Commerce Committee's gavel, has pushed to make three, or possibly all four, of the new districts Republican-favored, potentially shutting out Hispanic hopefuls from the new seats. Barton has harshly criticized Smith during Texas GOP delegation meetings, launching a profanity-laced tirade at Smith during one session early last month, and he's privately tried to oust Smith as the lead Republican negotiator on redistricting.

The debate has gotten so bad that Barton skipped a meeting of all Texas Republicans at the National Republican Congressional Committee last Thursday, according to several GOP insiders. He was the only Republican to miss the gathering, said the sources.

A Texas Republican said the debate has grown particularly acrimonious.

"Redistricting always does," noted the GOP lawmaker, who spoke on condition of anonymity.

"It is really bad," added another Republican insider familiar with the situation. "Barton is trying to push Smith out, but the members aren't buying into it. They think [Smith] has done a good job so far."

Barton, however, may be getting some support from Texas GOP Gov. Rick Perry, who wants to see at least three of the new seats go to Republicans, according to Democrats close to the situation.

Perry has also considered the idea of skipping Justice Department review of the new congressional map and going directly to federal court for approval, Democrats added. Nearly all Voting Rights Act-mandated reviews are first conducted by the Justice Department, although Perry wants to avoid that step with the Obama administration.

Barton's efforts could have an especially big impact on the Dallas-area district held by Rep. Pete Sessions, chairman of the NRCC. Sessions's current district — located northwest of Dallas — is more than 40 percent Hispanic.

Barton is pushing proposals to include more white voters in Sessions's district to help his colleague. Sessions easily won reelection in 2010 as he helped lead the NRCC to a historic House victory, although his district could become majority-minority under a new map unless changes are made.

For Republicans, the balancing act they must carry out during redistricting is also complicated by their freshmen having won seats in heavily Hispanic districts that would be made more safe by excising Latinos, who have traditionally supported Democrats. The vast majority of Hispanic state and local officials in Texas are Democrats, as are four of the six House members in the congressional delegation.

Neither Barton nor Smith responded to requests for comment. Aides to both lawmakers have sent emails to the offices of other Texas Republicans asking them not to cooperate with a POLITICO reporter, saying the dispute should be handled within the delegation.

Barton, along with former House Majority Leader Tom DeLay (R-Texas), was involved in the politically brutal 2003 redistricting fight in the Lone Star State.

DeLay helped get the Texas Legislature to redraw its congressional districts after the 2002 elections, and Republicans picked up five House seats during the 2004 presidential election. Democrats tried to subpoena Barton

to testify in the case, but the effort was quashed. DeLay has been sentenced to three years in prison over a state money-laundering charge related to that battle, but he is appealing his conviction.

Sessions would not comment on the dispute between Barton and Smith or redistricting discussions within the Texas GOP delegation, including last Thursday's gathering at the NRCC. Several sources said proposed district maps were distributed at the meeting, with the authorship of some of those plans unclear.

"The delegation is dedicated to fair and balanced lines not just for the members, but for the voters, and I believe we will do that," Sessions said. "I'm very secure in the Republican Texas delegation working very well for the best interests of all the people of Texas."

"I believe the entire delegation will speak very clearly," he added, "and I am very proud of where we are going."

The Texas Legislature has begun drawing new maps for both state and congressional lawmakers. If the Texas House and Senate cannot agree on outlines for the new congressional districts, Perry can convene a special session of the Legislature to do so. If no special session is called, a state or federal judge would likely draw the districts.

Jonathan Allen contributed to this report.

<http://dyn.politico.com/printstory.cfm?uuid=1DF15FB5-C076-5E63-CA23106901E49FD9>



## DOCUMENT INFO

Filename: Re: Meeting with SJS and Lamar.msg

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DOCUMENT INFO



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**From:** Denise Davis (home) [dendav1993@yahoo.com]  
**Sent:** Saturday, April 09, 2011 10:40 AM  
**To:** Eric Opiela  
**Subject:** Re: Meeting with SJS and Lamar

I'll check.

Sent from my iPhone

On Apr 9, 2011, at 10:22 AM, Eric Opiela <[eoapiela@ericopiela.com](mailto:eoapiela@ericopiela.com)> wrote:

> Denise,  
>  
> Will SJS be back in Austin Monday morning? If so, do you, GI and SJS have time to meet  
with Lamar anytime between 9am and 2pm, Monday?  
>  
> Thanks  
>  
> Eric

## DOCUMENT INFO

Filename: Fwd: .msg

FOLDER#: Straus072611\Outlook Data  
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DOCUMENT INFO

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**From:** Eric Opiela [eopiela@ericopiela.com]  
**Sent:** Friday, April 22, 2011 12:35 PM  
**To:** Denise Davis (home)  
**Cc:** Gerardo Interiano  
**Subject:** Fwd:

Do y'all have the data on # VRA and # of GOP under 55% comparison between Solomons/Nixon State House Plans for Lamar? See below. If y'all are too busy, just let me know and I can load it up and do the counts, but with 300 districts between the two, I thought I'd ask to see if you had that already.

Thanks

EO

Begin forwarded message:

**From:** [lamarsmith21@gmail.com](mailto:lamarsmith21@gmail.com)  
**Date:** April 22, 2011 12:19:05 PM CDT  
**To:** "Eric Opiela" <[eopiela@ericopiela.com](mailto:eopiela@ericopiela.com)>, "Jennifer Brown" <[Jennifer.Y.Brown@mail.house.gov](mailto:Jennifer.Y.Brown@mail.house.gov)>  
**Reply-To:** [lamarsmith21@gmail.com](mailto:lamarsmith21@gmail.com)

Met w tea party folks in sa this morn. They brought up st house redist and favor the nixon map over the solomons map bec it creates more gop dists. I told them re vra and asked them to ck to see how many of nixon dists were below 55. I didn't kno answer but wanted to raise questions about it. Is solomons map better in that regard.

Sent via BlackBerry by AT&T